05/12/08

(32)

HIGH COURT OF CHHATTISGARH AT BILASPUR

(Division Bench)

Coram: Hon'ble Shri Jagdish Bhalla, Ag.C.J. &
Hon'ble Shri Satish K. Agnihotri, J.

Writ Petition No. 4179 of 2003

Petitioner		Shri Hare Krishna Sponge Iron Pvt. Ltd. a company duly incorporated under the relevant provisions of the Companies Act, 1956 having its Factory at Siltara, Raipur.
	Versus	
Respondents	1.	The State of Chhattisgarh through the Collector, Raipur.
	2.	The Inspector General of Registration and Superintendent of Stamps, Govt. of Chattisgarh, Presently Working at Gwalior.
	3.	The District Registrar and Collector of Stamps, Raipur
	4.	Andhra Bank, a body Corporate having common seal and Perpetual Succession having inter alia amongst other branches, a branch at Fafadih Chowk, Raipur.

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA

Shri Malay Kumar Bhaduri, Advocate for the petitioners.

Shri N. K. Agarwal, Deputy Advocate General for the respondents No. 1 to 3.

Shri B. P. Sharma, Advocate for the respondent No.4.

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ORAL ORDER

(Passed on this 4th day of December, 2007)

The following oral order of the Court is passed by **Hon'ble Shri Jagdish Bhalla, Acting C.J.**

Learned counsel appearing for the parties agree that this case is covered by the judgment and order dated 11.3.2005 passed by this Court in W.P.No. 4276/96 (Murarilal Agrawal & another Vs. The State of M.P. & others). Accordingly this petition stands disposed of with the same terms and conditions, which are as follows:-

(a) There is a difference between the two concepts, namely, stamp duty and rate of duty;

(b) The State Legislature has the competence to provide the rates of stamp duty as per Entry 63 read with Entry 44 of List-III of the Seventh Schedule of the Constitution;

(c) There is no discrimination because a document relating to immovable property is liable to extra stamp duty under Section 75 of the 1993 Act because it is situated within the block whereas a similar property is not liable to excess duty solely on the ground it is situated within the Municipal area;

(d) Section 75 of the 1993 Act is intra vires and the proviso to Section 75 is to be given retrospective effect from the date when Section 75 came into force i.e. 25/01/1994; and

(e) The retroactivity would have limited effect so that the persons who have not paid the stamp duty would be liable to pay under the proviso but the persons who have paid under the main provision would not be entitled to refund."

Certified copy, as per Rules.

Sd/-
Ag. Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Thakur